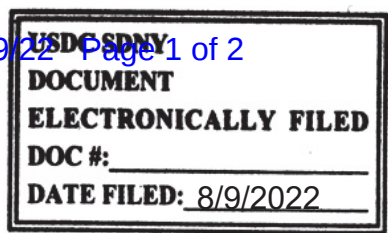




LAW OFFICES OF LAURIE E. MORRISON



August 9, 2022

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Hon. Robert W. Lehrburger, U.S.M.J.  
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**RE: Edward Banks v. McGynn, Hays & Co., Inc. et al.**  
**Civ. Action No.: 19-cv-05727 & 21-cv-679 (JPO) (RWL)**

Dear Hon. Lehrburger:

Plaintiff writes to respectfully request clarification of Your Honor's Order stating that Plaintiff could depose Defendants' 30(b)(6) witness Sullivan regarding **"the claims in the second action, the 102 late-produced documents, and the content of those documents. Additionally, questions may be posed concerning claims in the first action to the extent the content of the late-produced documents is relevant to those claims."** (Order, Dkt. #68, 339) (emphasis added).

As the Your Honor may recall, Defendants were also previously Ordered to produce *additional* long-outstanding, Court Ordered discovery that pertained to the claims and defenses asserted in the Initial Action and in the 2d Action – so that Plaintiff could also question Sullivan regarding those documents and related claims/defenses in his individual capacity and in his capacity as Defendants' 30(b)(6) designee: **"By August 3, 2022, to the extent not already produced, Defendants shall produce to Plaintiff all "mechanic activity reports," "time and attendance work records," and "employee earnings records" for Mr. Banks through the entire period of his employment, and for all coworkers of Mr. Banks about which the parties have agreed to exchange discovery covering the same period. Those documents, as with all other produced documents, must be legible, complete, and Bates-numbered. Plaintiff's deposition of Defendants 30(b)(6) witness, Mr. Sullivan, must proceed on August 8 or 10, 2022. The documents referenced in paragraphs 3 and 4 of this Order must be available in their entirety for Mr. Sullivan to reference during his deposition. The deposition may proceed for up to 7 hours."** (Order, Dkt. #66, 336)

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As a result, Defendants produced a total of approximately 464 pages of “Mechanic Activity Reports” and related time and attendance and salary records for Plaintiff and for Plaintiff’s co-workers (Bates Nos. D12CV-001-464) that they were repeatedly Ordered to produce in the Initial Action – and that pertain to claims and defenses asserted in both the Initial Action and in the 2d Action.

Accordingly, Plaintiff intends to question Sullivan in his individual and in his 30(b)(6) capacity regarding these ~464 pages of Court Ordered discovery (not just the ~102 pages that Defendants initially produced), regarding the claims and defenses asserted in the Initial Action and in the 2d Action related to the same, and regarding the claims asserted in the 2d Action unrelated to Defendants’ recently produced documents.

Doing so will be consistent with today’s Order (Dkt. #68, 339), with the previous Order (Order, Dkt. #66, 336), and with the motions, Court Conferences and Hearings related to the same. Nonetheless, Plaintiff respectfully makes note of it again for the Court’s and for Defendants’ reference. Further, Plaintiff discussed Defendants’ late produced ~102 pages of Court Ordered discovery during the parties’ emails to the Court this morning because those were what Defendants’ initial email motion mentioned and appeared to pertain to. Plaintiff certainly did not limit or waive his right to depose Sullivan regarding all of the above in any way.

To the extent that any of the above is not consistent with the Court’s Orders/Directives, then Plaintiff respectfully requests clarification on the record as soon as possible for the parties’ reference and so Plaintiff can effectively prepare to depose Sullivan beginning at 10am tomorrow morning.

Respectfully Submitted,

  
Laurie E. Morrison, Esq.

Granted. The Court agrees with Counsel's understanding.

SO ORDERED:

8/9/2022



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HON. ROBERT W. LEHRBURGER  
UNITED STATES MAGISTRATE JUDGE